

FORM TO BE USED BY PRISONERS IN FILING A COMPLAINT
UNDER THE CIVIL RIGHTS ACT, 42 U. S. C. Sec. 1983

IN THE UNITED STATES DISTRICT COURT
Western DISTRICT OF ARKANSAS
DIVISION

FILED
US DISTRICT COURT
WESTERN DISTRICT
OF ARKANSAS
Sep 12, 2018
OFFICE OF THE CLERK

Daniel Hurlbut

(Enter above the full name of the Plaintiff
in this action.)

Prison ID No. 1658898
(Do Not Put Your Social Security Number)

Case No. 18-6088

V.
LT. Adam Clark, et al.

(Enter above the full name of the Defendant
or Defendants, in this action.)

I. Previous Lawsuits

A. Have you begun other lawsuit in state or federal court dealing with the same facts in
involved in this action?

yes _____ No ✓

B. If your answer to (A) is yes, describe each lawsuit in the space below including the
exact Plaintiff name or alias used. (If there is more than one lawsuit, describe the additional
lawsuits on another piece of paper, using the same outline.)

1. Parties to previous lawsuit

Plaintiff: _____

Defendants: _____

2. Court (if federal court, name the district; if state, name the county):

3. Docket number: _____

4. Name of judge to whom case was assigned: _____


5. Disposition (for example: Was the case dismissed? Was it appealed?

Is it still pending?) _____

6. Approximate date of filing lawsuit: _____

7. Approximate date of disposition: _____

(Revised 07/2014)

See next 

Defendant #1

Full Name: Adam Clark
Position: Lieutenant
Place of Employment: ORCU - ADC
Address: 300 Correction Dr / PO Box 1630
Malvern, AR 72104

Defendant #2

Full Name: Joshua Williams
Position: Corporal - ERT
Place of Employment: ORCU - ADC
Address: 300 Correction Dr / PO Box 1630
Malvern, AR 72104

Defendant #3

Full Name: Sammy Jarrett
Position: Sergeant - ERT
Place of Employment: ORCU - ADC
Address: 300 Correction Dr / PO Box 1630
Malvern, AR 72104

Defendant #4

Full Name: Jason Clemons
Position: Sergeant - ERT
Place of Employment: ORCU - ADC
Address: 300 Correction Dr / PO Box 1630
Malvern, AR 72104

Defendant #5

Full Name: Paul Walter
Position: Lieutenant - ERT
Place of Employment: ORCU - ADC
Address: 300 Correction Dr / PO Box 1630
Malvern, AR 72104

Defendant #6

Full Name: Marro Trokadevic
Position: Sergeant - ERT
Place of Employment: ORCU - ADC
Address: 300 Correction Dr / PO Box 1630
Malvern, AR 72104

Defendant #7

Full Name: Accion Delaney
Position: Sergeant ERT camera
Place of Employment: ORCU - ADC
Address: 300 Correction Dr / PO Box 1630
Malvern, AR 72104

Defendant #8

Full Name: McDonnell
Position: Corporal Camera
Place of Employment: ORCU - ADC
Address: 300 Correction Dr / PO Box 1630
Malvern, AR 72104

Defendant #9

Full Name: Goldman
Position: Nurse - CCS
Place of Employment: ORCU - ADC CCS
Address: 300 Correction Dr / PO Box 1630
Malvern, AR 72104

Defendant #10

Full Name: Kennie Bolden
Position: Major - Security Building
Place of Employment: ORCU - ADC
Address: 300 Correction Dr. / PO Box 1630
Malvern, AR 72104

Defendant #11

Full Name: Faust
Position: Warden
Place of Employment: ORCU - ADC
Address: 300 Correction Dr / PO Box 1630
Malvern, AR 72104

Defendant #12

Full Name: Securus Phone Technology Company
Position: Phone Contractor
Place of Employment: ADC
Address: _____

Defendant #13

Full Name: Asa Hutchinson
Position: Governor
Place of Employment: AR
Address: _____

Defendant #14

Full Name: _____
Position: _____
Place of Employment: _____
Address: _____

Claim 1:

First Amend - Right to call lawyer, privileged correspondence, protected speech, inaccessible remedies

Defendants:

LT. Adam Clark, Securus

On 7/24/2018 LT Adam Clark came to my cell in SNC 42 where I'm was housed for protection, very angry and wanting me to "catch the cuffs" He would not explain why. I have serious mental health issues and this provoked my PTSD and panic disorder. I asked for a grievance which he refused.

I asked to call my lawyer, which would make me feel safe, and he refused. He left to assemble a cell extraction team. Officers were instructed by LT Clark not to allow me the phone, especially to call my lawyer. I had my friend use my info. to try and call my lawyer and warn him what was going to happen. My friend said it "was on a loop" and kept repeating the same info, not letting the call through - something we've never experienced before.

This is an unlawful feature Securus has put in its software to record, monitor or disrupt or prevent supposedly privileged calls with my

attorney. Days after the incident the phone was working fine again.

LT. Adam Clark used Securus technology to knowingly disrupt my protected speech/ conduct so my lawyer would be unable to intervene on my behalf.

— Personal & Official Capacities —

Claim 2: ~~B~~

Excessive Use of Force; Denial of Due Process
Deliberate Indifference to Medical

Defendants:

All Security Defendants

The month of July is the anniversary of my first wife's suicide. I historically have a lot of anxiety, depression and mental issues that time of year.

I believe all defendants planned and intended to hurt me.

LT Clarke tried to spray me and I tried to stop him from spraying me by grabbing the mace. When he said the team was coming in, I turned to face away and put my hands above my head to show non-aggression.

The team rushed in and smashed me all over the wall and floor. I tried to say I was not resisting. After I was on the floor face down and hand cuffed, they began punching and kicking me in my head face and body.

The camera operators caused this incident to occur during a specially timed blind-spot where they knew their actions would not be recorded.

They carried me to Isolation and cut my clothes off. They put me in a shower for a few seconds.

with hot water for only a few seconds. I begged for more water but they refused. They never allowed me to see a nurse. Then, Defendants put me in a cell with a bar of soap. Saying "you'll figure it out." and when I tried the sink, the water was turned off. I was refused a grievance and a phone call to my lawyer because I was on "Behavior Control". The reports were falsified and misrepresented the facts, and Warden Faust refused to investigate.

— official and personal capacities —

Claim #3.

Retaliation - Grievance / litigation,
First Amend't Protected Speech - redress grievance,
Privileged Comm'n - Attorney, Access Courts

Defendants:

All Security Defendants, Warden Faust

After I wrote a grievance and called my lawyer who called Warden Faust, LT. Clark and Cpl. Joshua Williams came to my cell for shake down. They took my law work, Prison Legal News, Law books, hygiene and even my clothes and blanket. They said Warden Faust is tired of my bullshit.

— Official & personal capacities —

If you asserting an official capacity claim, please describe the custom or policy that you believe caused the violation of your constitutional rights.

VII. Relief

If you are seeking to recover damages from the named Defendants, check the appropriate blank or blanks below for the type or types of damages that you are seeking:

- ☒ compensatory damages (designed to compensate persons for injuries, such as physical pain and suffering, etc., that are caused by the deprivation of constitutional rights)
- ☐ punitive damages (designed to punish a Defendant for engaging in misconduct and deter a Defendant and others from engaging in such misconduct in the future)

State briefly any other relief you are seeking in this action. Make no legal arguments. Cite no cases or statutes.

Protective Order

Change to Use of Force policy, Injunction to
remove ability to monitor, block legal phone calls

I declare under penalty of perjury (18 U.S.C. § 1621) that the foregoing is true and correct.

Executed this 7 day of September, 2018.

Daniel Harbut

Printed Name of Plaintiff

[Signature]

Signature of Plaintiff

UNIT LEVEL GRIEVANCE FORM (Attachment I)Unit/Center ORCUName Daniel HurtubADC# 658896 Brks # WISA24 Job Assignment _____QUACHITA RIVER UNIT
GRIEVANCE OFFICE

FOR OFFICE USE ONLY

GRV. # 0118-00908Date Received: 7-31-18GRV. Code #: 4007.23.18 (Date) STEP ONE: Informal Resolution7.30.18 (Date) STEP TWO: Formal Grievance (All complaints/concerns should first be handled informally.)If the issue was not resolved during Step One, state why: not resolved

_____, (Date) EMERGENCY GRIEVANCE (An emergency situation is one in which you may be subject to a substantial risk of physical harm: emergency grievances are not for ordinary problems that are not of serious nature). If you marked yes, give this completed form to the designated problem-solving staff, who will sign the attached emergency receipt. In an Emergency, state why: _____

Is this Grievance concerning Medical or Mental Health Services? _____ If yes, circle one: medical or mental**BRIEFLY** state your one complaint/concern and be specific as to the complaint, date, place, name of personnel involved and how you were affected. (Please Print):

On July 19, I was having serious panic attack because LT. Clark said I could not call my lawyer or get a grievance until I calmed up and no one would explain why. I had anxiety and felt the E was a cover up plot to hurt me for my litigation. When someone tried to call for me b/c I felt my life was in danger, the phone would not let the call go thru, probably someone preemptively tampered with it. Before the extraction team came in I turned away and placed hands above head to show non-hostile intentions. I was taken to the guard cuffed and then punched multiple times in the face. I was only decontaminated for a few seconds in the shower, not 20 minutes. I was put in the cell still blinded and hurting and denied medical. LT Clark said I am not allowed to call my lawyer. Write a grievance on Behavior control. I couldn't shower either and got staph. The use of force video will prove everything I say is true and that documents were falsified. Retaliation for litigation/grievance.

Inmate Signature [Signature]Date July 23, 2018

If you are harmed, threatened because of your use of the grievance process, report it immediately to the Warden or designee.

THIS SECTION TO BE FILLED OUT BY STAFF ONLYThis form was received on 7-30-18 (date), and determined to be Step One and/or an Emergency Grievance(Yes or No). This form was forwarded to medical or mental health? No (Yes or No). If yes, name of the person in that department receiving this form: _____ Date _____PRINT STAFF NAME (PROBLEM SOLVER) St BallID Number 45319Staff Signature [Signature]Date Received 7-30-18Describe action taken to resolve complaint, including dates: Talked to LT. Clark. He stated that he didn't retaliate was not made aware to him. You were seen by Med Tech by Nurse Goldman. You were placed into the shower and was decontaminated with copious amount of cool running water. No falsified documents were made.Staff Signature & Date Returned St Ball - 7-30-18 Inmate Signature & Date Received [Signature] 7-30-18This form was received on _____ (date), pursuant to **Step Two**. Is it an Emergency? _____ (Yes or No).

Staff Who Received Step Two Grievance: _____ Date: _____

Action Taken: _____ (Forwarded to Grievance Officer/Warden/Other) Date: _____

If forwarded, provide name of person receiving this form: _____ Date: _____

DISTRIBUTION: YELLOW & PINK - Inmate Receipts; **BLUE** - Grievance Officer; **ORIGINAL** - Given back to Inmate after Completion of Step One and Step Two.

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Attachment II

ACKNOWLEDGMENT OR REJECTION OF UNIT LEVEL GRIEVANCETO: Inmate Hurlbut, Daniel
FROM: Orr, Vickie L
DATE: 08/01/2018ADC #: 658898B
TITLE: ADC Inmate Grievance Coord
GRIEVANCE #: OR-18-00908Please be advised, I have received your Grievance dated 07/23/2018 on 08/01/2018.
Your grievance was rejected as either non-grievable, untimely, duplicative, frivolous, or vexatious.

RECEIVED



Signature of ADC Inmate Grievance Coord

AUG 07 2018

CHECK ONE OF THE FOLLOWINGINMATE GRIEVANCES SUPERVISOR
ADMINISTRATION BUILDING

- ☒ This Grievance will be addressed by the Warden/Center Supervisor or designee.
- ☐ This Grievance is of a medical nature and has been forwarded to the Health Services Administrator who will respond.
- ☐ This Grievance involves a mental health issue and has been forwarded to the Mental Health Supervisor who will respond.
- ☐ This Grievance has been determined to be an emergency situation, as you so indicated.

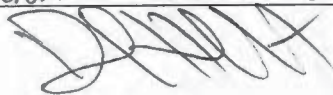
- ☐ This Grievance has been determined to not be an emergency situation because you would not be subject to a substantial risk of personal injury or other serious irreparable harm. Your Grievance will be processed as a Non-Emergency.
- ☒ This Grievance was REJECTED because it was either non-grievable (Disciplinary matter), untimely, was a duplicate of , or was frivolous or vexatious.

Not about Disciplinary
AND RETALIATION**INMATE'S APPEAL**

If you disagree with a rejection, you may appeal this decision within five working days by filling in the information requested below and mailing it to the appropriate Chief Deputy/Deputy/Assistant Director. Keep in mind that you are appealing the decision to reject the original complaint. Address only the rejection; do not list additional issues, which were not a part of your original grievance as they will not be addressed. Your appeal statement is limited to what you write in the space provided below.

and excessive use of force by LT Clark and cell extract team NOT about the disciplinary which I have addressed in disc. appeal. Video will show I was beaten and punched in the face while in handcuffs on the ground I was refused phone and grievance. This was RETALIATION for my investigation/grievances. LT Clark called me a "writ writer" Now Warden Faust refuses to investigate and Vickie Orr denies me administrative remedy. Please Exhaust.

Inmate Signature



ADC #

658898

Date

8.2.2018

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3GD

Attachment VI

INMATE NAME: Hurlbut, Daniel

ADC #: 658898

GRIEVANCE#: OR-18-00908

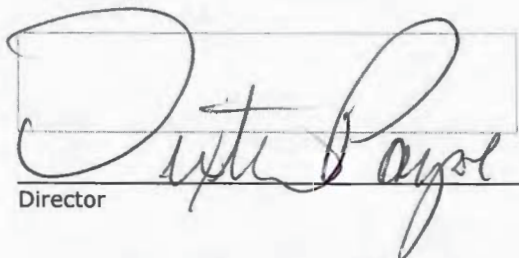
CHIEF DEPUTY/DEPUTY/ASSISTANT DIRECTOR'S DECISION

In your grievance dated 7/23/18, you stated, "On July 19, I was havin serious paranoia because Lt. Clark said I could not call my lawyer or get a grievance until O cuff up and no one would explain why. I had anxiety and felt there was a cover up plot to hurt me for my litigation. When someone tried to call for me b/c I felt my life was in danger the phone would not let the call go thru probably someone preemptively tampered with it before the extraction team came in I turned away and placed hands above head to show non hostile intentions. I was taken to the ground cuffed and then punched multiple times in the face. I was only decontaminated for a few seconds in the shower not 20 minutes. I was put in the cell still blinded and burning and denied medical Lt. Clark said I am not allowed to call my lawyer write a grievance on behavior control. I couldn't shower either and got staph. The use of force video will prove everything I say is true and that documents were falsified. Retaliation for litigation/grievances"

On 8/1/18 the unit responded to your grievance by rejecting it due to being a disciplinary matter.

Your appeal was received on 8/7/18. In review of your appeal and the response from the unit, I concur with the unit's decision. This is a disciplinary matter and should be addressed through the disciplinary process. I find no merit in your appeal.

Appeal denied.


Director

8-22-18
Date

UNIT LEVEL GRIEVANCE FORM (Attachment I)Unit/Center ORCUName Daniel HurtburtADC# 1058898 Brks # W1D 24 Job Assignment _____

FOR OFFICE USE ONLY

GRV. # SNN 18-00076

Date Received: _____

GRV. Code #: _____

(Date) STEP ONE: Informal Resolution

8.6.18 (Date) STEP TWO: Formal Grievance (All complaints/concerns should first be handled informally.)If the issue was not resolved during Step One, state why: Dental of Remedies8.13.18 (Date) EMERGENCY GRIEVANCE (An emergency situation is one in which you may be subject to a substantial risk of physical harm: emergency grievances are not for ordinary problems that are not of serious nature). If you marked yes, give this completed form to the designated problem-solving staff, who will sign the attached emergency receipt. In an Emergency, state why: This should be taken directly to the warden or designee I was harmed by my use of the grievance.

Is this Grievance concerning Medical or Mental Health Services? _____ If yes, circle one: medical or mental

BRIEFLY state your one complaint/concern and be specific as to the complaint, date, place, name of personnel involved and how you were affected. (Please Print): This grievance is about retaliation for my grievances and litigation by Warden Faust, Lt. Clark and other members of the extraction team I write a grievance on. Today they did a shakedown of W1D and were taking items allowed by policy. Said that Warden Faust wanted to target and harass inmates not wanting to go back to Gen Pop. They came in my cell, took my evidence folder for my two active cases, one on Delagotti, my prison court news, my law book, stamped envelopes, law book "D.C. Plaintiff Self Help Litigation Manual", all my hygiene, blanket, sheets, socks, soap, toothpaste, toothbrush etc. They refused to do a confiscation inventory form. Officer Holstein on the floor began passing the property back to inmates. CO Thomas refused to allow him to bring my property back, refused to take me to medical, and refused me a grievance and refused to allow me to call my lawyer. I demand my stuff back and that Internal Affairs investigate. Not safe at this unit. Constant retaliation by staff and warden.Inmate Signature [Signature]Date Aug. 13. 2018If you are harmed, threatened because of your use of the grievance process, report it immediately to the Warden or designee.**THIS SECTION TO BE FILLED OUT BY STAFF ONLY**This form was received on _____ (date), and determined to be **Step One** and/or an Emergency Grievance _____ (Yes or No). This form was forwarded to medical or mental health? _____ (Yes or No). If yes, name of the person in that department receiving this form: _____ Date _____

PRINT STAFF NAME (PROBLEM SOLVER)

ID Number

Staff Signature

Date Received

Describe action taken to resolve complaint, including **dates**: _____

Staff Signature & Date Returned

Inmate Signature & Date Received

This form was received on _____ (date), pursuant to **Step Two**. Is it an Emergency? _____ (Yes or No).

Staff Who Received Step Two Grievance: _____ Date: _____

Action Taken: _____ (Forwarded to Grievance Officer/Warden/Other) Date: _____

If forwarded, provide name of person receiving this form: _____ Date: _____

DISTRIBUTION: YELLOW & PINK - Inmate Receipts; **BLUE** - Grievance Officer; **ORIGINAL** - Given back to Inmate after Completion of Step One and Step Two.

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Attachment VIII

Arkansas Department of Correction Inmate Grievance Investigation Worksheet

The below listed inmate has filed a grievance/appeal with this office. In the area for an employee statement, please write a detailed response regarding the issue(s) stated by the inmate in this grievance. The statement "I have no knowledge", is not acceptable. Also, please submit any supporting documentation with your response, i.e., disciplinary, 005's, logs, medical information, other officers and/or inmate statements, etc.

EMPLOYEE: Thomas, Joseph

UNIT: Ouachita River Correctional Unit

RE: INMATE: Hurlbut, Daniel

ADC#: 658898

FROM: Orr, Vickie LDUE DATE: 08/30/2018

GRIEVANCE #: SNN18-00076

DATE OF INCIDENT: 08/23/2018

Inmate's Complaint:

This grievance is about retaliation for my grievances and litigation by Warden Faust, Lt. Clark and other members of the extraction team I wrote a grievance on. Today they did a shakedown of WISO and were taking items allowed by policy. Said that Warden Faust wanted to target and harrass inmates not wanting to go back to gen. pop. They came in my cell, took my evidence folder for my two active cases, one on Dr. Liggett, my prison legal news, my law work, stamped envelopes, law book "Disciplinary self help litigation manual" all my hygiene, blanket, sheets, socks, sop, toothpaste, toothbrush, etc. They refused to do a confiscation inventory form. Officer Holstein on the floor began passing the property back to inmates. CO Thomas refused to allow him to bring my property back, refused to take me to medical and refused me a grievance and refused to allow me to call my lawyer. I demand my stuff back and that Internal Affairs investigate. Not safe at this unit. Constant retaliation by staff and Warden.

Employee Statement:

1. Did you pack up inmate Hurlbut's property during shakedown?
2. Did you confiscate items that he is allowed to have in Isolation?
3. Did you refuse to let another officer give inmate Hurlbut his property back?
4. In addition to answering the questions, please write a detailed response regarding the issue(s) stated by the inmate in this grievance. The statement "I have no knowledge", is not acceptable. Also, please submit any supporting documentation with your response, i.e., disciplinary, 005's, logs, medical information, other officers and/or inmate statements, etc.

Responding Staff Signature_____
Date

You are not to retaliate against this inmate for submitting this grievance. You are not to discuss this grievance with anyone, staff or inmate, except as necessary to complete your statement. If you are found to have retaliated against any inmate for using the grievance procedure, you will be subject to disciplinary action, which may be a verbal warning, a written warning, and/or termination.

Daniel Hurtbat #658898

PO Box 1630

Malvern, AR 72104

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7017 1000 0000 3927 1569

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09/08/2018

US POSTAGE



US DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FILED

SEP 11 2018

DOUGLAS R. YOUNG, CLERK

By Deputy Clerk

USDC - PO Se' Clerk

35 E Mountain - Room 510

Fayetteville, AR 72701